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THE LEGAL STATUS OF A SOVIET INDUSTRIAL ENTERPRISESovetskoye Gosudarstvo i Pravo, No 8,
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At present [December 1955], the legal status of the state industrial enterprise is defined by a number of normative decrees, among which is The Statute (polozheniye) Concerning State Industrial Trusts, issued by the Central Executive Committee and Council of People's Commissars, 29 June 1927. A considerable portion of this statute is obsolete, and although it has not been formally revoked, in practice many questions pertaining to the legal status of an industrial enterprise are regulated by later directives. Among these are the Decree of the Central Committee of the All-Union Communist Party (b) of 5 September 1929 on "Measures for Regulating the Management of Production and Establishment of One-Man Management," the Decree of the Central Committee of the All-Union Communist Party (b) of 5 December 1929 on "Reorganization of Industrial Management," and on the basis of this, the Decree of the Central Executive Committee and Council of People's Commissars of 13 February 1930 on "Reorganization of the Management of State Industry."

Of special importance in defining the legal status of the enterprise are the Decree of the Council of Labor and Defense of 23 July 1931, concerning the "Working Capital of State Associations, Trusts, and Other Economic Organizations" and other acts relating to the method of forming, reorganizing, and liquidating enterprises; establishing the method of selling surplus stocks and output; utilizing monetary funds; transferring buildings, installations, equipment, and materials; and defining the powers of higher organs in the management of enterprises, and forms of this management.

The decisions of the July 1955 Plenum of the Central Committee of the CPSU outlining the important measures for further improvement of industrial operations demand an examination of several obsolete decrees concerning the legal status of state industrial enterprises.

Two basic principles underlie the organizational administration of USSR industry, these principles being conditioned by the socialist system of economy and socialist ownership of the means of production: (1) centralized management of enterprises and (2) operational independence of an enterprise. These two principles do not contradict, but complement each other. Centralized management, which is primarily planned management, guarantees the coordination of an enterprise's operations with those of the entire national economy. While developing the enterprise's initiative, operational independence is employed to achieve better organization of plan fulfillment, fuller utilization of internal resources and production capacity of each enterprise, and greater technical progress.

The proper interrelationship of centralized management and operational independence is one of the necessary conditions for the successful operation of socialist industry. Limitation of planning principles means destruction of the normal connection of an enterprise with other links of the national economy; limitation of operational independence hinders initiative.

The question of an enterprise's independence is essentially a question of the rights of the enterprise's director. Since the rights and obligations of an enterprise are exercised by the director as a representative of the state in managing all the affairs of an enterprise and since he acts as the organ of an enterprise, he is a legal subject (sub'yekt prava).

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In the July 1955 Plenum of the Central Committee of the CPSU, the status of an enterprise director was sharply criticized. Directors have often attempted to surmount difficulties connected with the "lack of rights" by means of still greater centralization in solving their respective problems. Experience has indicated that further centralization does not lead to the elimination of difficulties, but on the contrary, often aggravates them. For example, in order to check the accumulation of surplus equipment in enterprises, it was previously decreed that an enterprise director has not been endowed with the right to dismantle centrally allocated equipment in good repair (aside from rearrangements within shops) or replace any equipment in good condition with newly allocated equipment. In such cases the dismantling of equipment is to be carried out only with the permission of the minister or his first deputy. This regulation, still not formally rescinded, has not actually resulted in a reduction of surplus equipment in enterprises, but has greatly restricted the rights of enterprise directors in introducing new techniques and technology.

In accordance with decisions of the July 1955 Plenum of the Central Committee of the CPSU, the rights of enterprise directors have been considerably broadened and the operational independence of the enterprise has, therefore, been increased. Only the basic operational indexes must be planned: physical output and the products list, cost, accumulation, capital construction, wages, and over-all size of the labor force, the plan for supplying the enterprise with basic materials and monetary funds, and certain other basic indexes. Within the limits established by the plan, an enterprise can organize its work independently.

Broadening of the rights of enterprise directors guarantees considerably greater operational independence of the enterprise. However, this in itself does not mean that an enterprise acquires operational independence in resolving fundamental problems. The practice of enterprise management by higher organs may be the essential correctional factor in the operational independence of an enterprise, i. e., in the execution of the rights extended to it. In this connection, the question arises as to whether the higher organs have a right to limit the competence of subordinate enterprises, and to what extent.

The Council of Ministers USSR exercises the over-all organization of the administration of the national economy. It determines the legal status of state enterprises and the basic forms of enterprise management by higher organs. The decisions of the Council of Ministers USSR specify in a general way in what respects and within what limits higher organs can restrict the operational independence of enterprises. Thus, it determines the interrelationship between centralized management and operational independence. However, in the course of the enterprise management, the higher organs have frequently hampered the initiative of enterprises in an ever greater number of questions, stemming from the fact that such action is not specifically prohibited under existing regulations. In certain cases instructions from a higher organ relate to all or some of the subordinate enterprises; in others, the higher organ addresses itself to a specific enterprise and on the basis of analyzing the state of affairs in this enterprise, gives it instructions as to how its operations should be handled in a given situation.

It can hardly be considered a correct procedure for higher organs to restrict the operational independence of all or a certain group of subordinate enterprises in matters involving a greater number of questions than those stemming directly from decisions of the Council of Ministers USSR.

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In cases where the Council of Ministers USSR does not specifically limit the operational independence of enterprises or does not specifically authorize other organs (ministries, main administrations, etc.) to limit their operational independence, the higher organs have no right to hamper their initiative. Otherwise, the correct interrelationships between centralized management and operational independence established by the Council of Ministers USSR is violated. Such a practice leads to excessive administrative centralization and a stereotyped approach to enterprise management.

It would be appropriate to utilize new, more flexible forms of management in industry. Higher organs could issue only the compulsory decrees, but some decrees of an advisory nature as well. Such decrees would bear a great deal of authority since they would be based on the experience of advanced enterprises and on scientific data. Each enterprise could then modify this experience in accordance with its peculiarities, add new elements, and thereby utilize it more effectively, while enterprise managers would bear greater responsibility for matters entrusted to them.

Expansion of the rights of ministers and chiefs of main administrations must not restrict the rights of the enterprise directors, or limit the property independence of enterprises. Otherwise, expansion of the rights of enterprise directors as well as those of ministers will conflict. It is clear that the expansion of rights of enterprise directors is taking place in one field -- in the field of operational independence concerned with production organization and disposition of property, while the expansion of the rights of ministers is in another field -- in the administration of the appropriate branch of the national economy.

Some enterprises need items which are not produced at present by USSR industry; for example, spare parts for foreign machinery or domestic machinery no longer in production. The manufacture of these spare parts in enterprises requiring them is impractical in a number of instances; because of cost or poor quality. Such articles must be produced in special enterprises. Existing norms permit this to be done. At present, the enterprise has the right to accept independent orders from other enterprises and organizations for the production of various types of goods from raw materials and stocks of consumers from its own materials and production waste without interfering with commodity production plan fulfillment.

Analysis of the legal status of an enterprise requires examination of the question as to what influence a given norm regulating the work of an enterprise may have on the cost accounting (khozraschet) of an enterprise and its interest in the results of its activities. Cost accounting presupposes that certain property, its production capital, be set aside for the enterprise, and shows expenditures incurred in the course of production as well as its results. The legal problem lies in consolidating the property set aside for the enterprise which, in turn facilitates the strengthening of cost accounting and forms the status of an enterprise as a legal subject.

Currently, however, there are many deficiencies in this system. Ministries and main administrations are given practically an unrestricted right to redistribute enterprises' monetary funds. Ministries and main administrations frequently withdraw above-plan profits and part of working capital from efficient enterprises and at their expense make up the deficiencies in working capital at inefficient enterprises, thereby creating the appearance of financial well-being of the latter enterprises.

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The rights of ministries in this sphere must be somewhat restricted and the rights of enterprises broadened, returning, for example, to the status established by the Decree of the Council of Labor and Defense, 23 July 1931, whereby the people's commissariats were given the right to alter the amounts of working capital of enterprises only at the time of the approval of the annual industrial-financial plan or during alterations of the plan in the last half of the year. In addition, orders of ministries concerning redistribution of working capital would have to be carried out under the control of appropriate finance organs. In this event, there would be specific guarantees of the stability of the enterprise's property, and guarantees of observation of the principles of cost accounting and material interest of economic organs in the results of their work.

Fixed assets do not fall under cost accounting because at present a strict division between fixed and working capital is made.

The sharp differentiation between fixed and working capital disrupts the unified complex of property of a state enterprise, with the result that each enterprise is essentially two legal persons -- the enterprise itself and the capital construction division. The capital construction division maintains an independent settlement account, operates independently in its own name, is held accountable with its property in transactions, and has a current account with the enterprise. The specific nature of interrelationships of the enterprise and the capital construction division is that both organizations are headed by one person -- the director of the enterprise, and the capital construction division transfers the results of its operations to the enterprise, as a rule, free of charge.

The separation of working capital and capital investment funds also has another aspect. It centers around the rights of an enterprise to carry out capital works. The rights of enterprises in this area have been considerably expanded. However, even the new rights of an enterprise still fail to guarantee fully the measures for introducing new techniques and improving technology. An enterprise, for example, does not have the right to utilize working capital for these purposes (in excess of 500 rubles).

The value of fixed assets which is considered to be part of working capital has been steadily increasing (from 200 rubles, to 300 rubles, and finally to 500 rubles). The granting to enterprises of rights to obtain credit from Gosbank for capital works creates a serious breach in the strict delimitation between capital investment funds and working capital, since the enterprise repays the loan to Gosbank from this same working capital (savings effected from new investment). The obtaining of loans from Gosbank involves the payment of interest as well as a number of additional difficulties in negotiating these loans. Why should it be impossible to permit an enterprise, which on obtaining a loan from Gosbank carries out capital works essentially through use of its own working capital, to spend its free working capital directly on some capital works and relate the corresponding expenditures to the cost of production? It must be borne in mind that the rights received by the director in the sphere of technological innovation are not effective if they are not accompanied by the right to spend corresponding monetary funds for these purposes.

The July 1955 Plenum of the Central Committee of the CPSU places before USSR industry the task of further improving technology and introducing progressive technological processes and machines of the latest design. In this connection, it should be noted that at present the enterprise directors are given the right to alter the technological processes of serial, individual, or experimental production of parts provided it does not impair quality, increase production costs, or bring about changes of established technical specifications for production as a whole.

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An important condition for introducing new techniques in production is more flexible and operational planning. Currently, enterprise directors are given the right to modify quarterly plans for the production of equipment and finished goods, aside from mass-produced products, with the consent of the customer for early or postponed delivery within the quarter, advising the sales organization of the ministry (department) accordingly. But this is not enough. Property sanctions must not be imposed on an enterprise which introduces new techniques and thereby sustains a temporary drop in productivity.

It would also be expedient to permit ministries, directors of central establishments, and executive committee divisions to free the enterprise from fulfilling a certain part of planned goals (and correspondingly obligations to other organs) which the enterprise cannot fulfill because its productivity drops temporarily as a result of the introduction of new techniques. The fulfillment of appropriate goals can be transferred to other enterprises of the same ministry with the proviso that the enterprise undertaking reconstruction will, within a certain specified period, compensate for the temporary nonfulfillment of the plan.

At present, a new statute concerning the industrial enterprise and trust is being drawn up to replace the obsolete Statute of Trusts 1927. The new statute should elucidate all fundamental questions connected with the operations of a state industrial enterprise: its relations with higher organs and other economic organs, the limits of its operational independence, the legal status of property of a state enterprise, and the legal status of individual structural links of an enterprise, including the specific nature of the legal status of the capital construction division. It should also contain the fundamental decrees concerning the rights of the enterprise director, shop chiefs, and foremen. It is understood that the statute cannot include all norms relating to state enterprises, but it should provide starting points on all questions pertaining to the activities of enterprises.

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